



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/626,100	07/26/2000	Adam M. Gersting	426882000500	8237

20872 7590 02/20/2003
MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

EXAMINER

BOYCE, ANDRE D

ART UNIT PAPER NUMBER

3623

DATE MAILED: 02/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/626,100

Applicant(s)

GERSTING, ADAM M.

Examiner

Andre Boyce

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This Final Office Action is in response to Applicant's amendment filed December 11, 2002. Claims 1-3, 5-11, and 13-16 have been amended. Claims 1-16 are pending.
2. The previously pending objection to the drawings has been withdrawn.
The previously pending rejections to claims 1-3, 5-11, and 13-16 under 35 USC § 112 have been withdrawn.
3. Applicant's arguments filed December 11, 2002 have been fully considered but they are not persuasive. Further, any changes made to the rejections have been necessitated by Applicant's amendments to the claims.

Specification

4. The disclosure is objected to because of the following informalities: Applicant uses bullet lists throughout the specification and in the claims. The bullets should be removed, and the verbiage incorporated into paragraph form, because, if allowed there are no provisions for bulleted lists in printed patents. Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-3, and 9-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Baxter et al (USPN 6,356,903).

As per claim 1, Baxter et al disclose a method for designing a coordinated content management and delivery system (web based content management system, see Figure 1) comprising the acts of, determining key considerations (requested content) related to the client environment (see column 4, lines 38-42); providing key processes (organizational and format components) for use in developing a solution to a system design problem (see column 5, lines 48-51), the system design problem being the determination of what content management and delivery products and processes to implement and how to implement them (i.e., each responsible contributor creates, edit, and/or designs the components and overall format of the content and delivery, see column 5, lines 44-55); and applying these key considerations and processes to the system design problem with the assistance of a framework (outlines and associated templates, see column 5, lines 51-54) showing

Art Unit: 3623

basic content management and delivery element relationships, whereby such a solution to the system design problem can be produced (see column 6, lines 15-27).

As per claim 2, Baxter et al disclose the solution to the system design problem includes facilities whereby coherent sales, training, electronic learning or marketing campaigns are efficiently generated to web-based and other clients (training system, see column 4, lines 20-24).

As per claim 3, Baxter et al disclose the solution to the system design problem includes facilities whereby transaction processing and execution are monitored and captured for adding data to a target customer's profile (user profile, see column 17, lines 18-24).

Claims 9-11 are rejected based upon the rejection of claims 1-3, since they are the system claims corresponding to the method claims.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4-8, and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baxter et al (USPN 6,356,903), as applied to claims 1 and 9 above, in further view of Swartz et al (USPN 6,236,994).

As per claim 4, Baxter et al does not explicitly disclose the framework is a formalized framework for supporting assessment of needs, and planning and implementing of content management solutions. Swartz et al disclose planning based on various information sources and decision points (see column 7, lines 58-62). Swartz et al also discloses a framework to build, augment, and represent (i.e. assess, plan, and implement) the integration knowledge (content) base (see column 18, lines 55-64). Both Baxter et al, and Swartz et al are concerned with management of content (i.e. knowledge, data, and information), therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a formalized framework in Baxter et al, as seen in Swartz et al, thereby having a construct to assist the user in consistently delivering suitable content management solutions.

As per claims 5-8, Baxter et al does not explicitly disclose the formalized framework and associated processes and considerations being used to; guide discussions about desired capabilities of the desired content management and delivery system, develop a meaning of content management and a set of process considerations required for the definition, assess the business capabilities to be supported, and achieve an effective design solution including an assessment of available products and services. Swartz et al disclose the ability to visualize and explore (discuss) past, present, and potential decisions based on the content (see column 7, lines 49-55). Further, Swartz et al disclose implementing the system in one or more phases of complexity, based on the problem (i.e. developing and

assessing the content management to achieve an effective design solution, see column 8, lines 45-49). Both Baxter et al, and Swartz et al are concerned with management of content (i.e. knowledge, data, and information), therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the uses of the formalized framework in Baxter et al, as seen above, thereby providing the user with a construct to either avoid, recognize, or reflect on problems that could cost the user time and/or money (see Swartz et al column 7, lines 58-67, and column 8, lines 1-7).

Claims 12-16 are rejected based upon the rejection of claims 4-8, since they are the system claims corresponding to the method claims.

Response to Arguments

9. In Remarks, Applicant argues with respect to claims 1 and 9, that Baxter teaches nothing about what products and processes to implement and that Baxter teaches only one approach to content management. The Examiner disagrees with this assertion, and submits that the Baxter web based content management system (see Figure 2), is accessed by a variety of users, including programmers, designers, graphic artists, and authors, all of whom take part in determining what content and delivery product and processes to implement in the creation of the web page (i.e., product) for the user (see column 5, lines 44-55).

Applicant also argues, with respect to claims 4-8 and 12-16, that the framework in the Swartz system does not teach showing basic content management and

delivery element relationships, whereby such a solution to the system design problem is solved. The Examiner submits that Baxter teaches a framework showing basic content management and delivery element relationships, whereby such a solution to the system design problem is solved, as disclosed in claim 1, whereas Swartz teaches a **formalized** framework to build, augment, and represent (i.e. assess, plan, and implement) the integration knowledge (content) base, as disclosed in claim 4, hence the reason for combining the references.

Lastly, in response to Applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, since both Baxter and Swartz are concerned management of content (i.e. knowledge, data, and information), the factual question of motivation is seen in the similar subject matter, not a conclusory statement made by the Examiner, as seen in the case cited by Applicant. The formalized framework, as disclosed by Swartz, is architecture preferably integrated to allow smooth interaction between functions (see column 19, lines 11-15), and as such, provides further motivation for combination of the references.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (703) 305-1867. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and After Final communications, and (703) 746-7305 for informal/draft communications.

Art Unit: 3623

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



adb

February 15, 2003



TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600